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REMARKS

On the First Chapter in
(Charles)
Dr. DAVENANT'S
ESSAYS.



L O N D O N :

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REMARKS

ON THE CHART

TO THE VANT

ESSAYS



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SOME
REMARKS
On the First Chapter in
Dr. DAVENANT's
ESSAYS.

*Concerning Appeals to the People from
their Representatives.*

TIS one of the most unhappy Methods can possibly be taken by an Author, to have the Title of his Book tell the World one thing, and the Book it self another ; for as it favours of abundance of Insincerity in Principle, so it seems to bring some Scandal upon the very Design of the Book, as if it had occasion for a double Aspect.

I cannot think when I meet with such a Book, that I do the Author any wrong, by supposing that different Colours are put upon the Face of the Work, because for some reason or other, it is not fit to be seen in its Own.

Disguises are never used where nothing is to be concealed, and nothing concealed, but what Shame, Fear, or Policy commands to be hid.

A Genuine Cause carries its Native Colours always outermost, is never shy of its Face, nor fond of being concealed.

The application lies full against the Essays of a learned Author lately Published and Dedicated to her Majesty, which I cannot but say, had been Genuine enough, had the Title and Dedication not given us a wrong Idea of the Work ; had the Title been, *An Essay against Peace at Home* ; the Author whether he had discovered his Mind or no, I wont determine ; had certainly made the Title and the Book correspond, the Doctrine had been suitable to the Text, and the Work all of a Piece.

Neither can I reconcile the Dedication of it to the Subject, much less to the time 'twas wrote in, for whereas the Author owns the time, the Tracts here pointed at were wrote in, to be a time of Provocation, Disgust, and ill Blood, and thinks there was good Reason for it too ; the suiting it to a time when her Majesty makes a healing Proposal of Peace, makes a little more Incongruity than is usual to be seen in his more Polite Management of his Pen.

But this is not all, for I could easily have abated this Gentleman the Observation of ill Timing one Piece, and he might be allowed to be very capable of such

such Alterations as might heal the Breach of Time between the Tract it self and the Queen's Speech.

But there seems to me such a contrariety of Circumstances, in the very Substantial Essential Part of her Majesties Speech, and that part of the Book which I have here taken in hand, that 'tis impossible to make a Symphony of such discording Parts.

This is to tell her Majesty, we joyn with her Proposal of Peace and Union, and will endeavour to pursue it by devesting all her Subjects as a collective Body of their Native Original Power and Property, and overturning the very Center of the Monarchy.

How easy 'tis for Men of Wit to give any thing a fair Face, and by a happy turn of Language call things of contrary Subjects by the same Name ; Dr. *Davenant* depriving the People of all Power, but what is Representative and giving the Delegated Power a Superiority over the Power Delegating. Sir *Humphrey Mackworth* defending an Occasional Bill, and both presented to the World with the Equi-Vocal Title of *Peace at Home*, and dedicated to the Queen with high Strains of Eloquence, of which both are very Good Masters, complimenting her Majesty on the Head of Peace proposed in her Speech to the Parliament.

Certainly, Gentlemen, you must both of you mistake her Majesties Meaning, who without doubt is acting in the safe middle Way, between both your Extreams. If you are driving at *Peace at Home*, 'tis by some Antiperistasis, some contraries in Nature, and consequently the End you aim at is remote, and the Means tedious: It may be a Way to Peace for ought we know, but certainly 'tis not that Peace her Majesty means, 'tis not the Peace the Nations want, and therefore give me leave to make this just Distinction be-

tween her Majesties Proposal, and your projected Essay, as to the Nature of Peace.

Your Peace is a Peace of Subjection, her Majesties is a Peace of Conjunction, and this her Majesty has most explicitly directed us to understand by the immediate addition of a term Comprehensive of both; *Union* you may be for Peace, but 'tis *Peace and Union* that these Nations want, and which her Majesty recommends to all her Subjects to promote.

The first Head of the learned Essays lately published, and which I fix on in these Remarks, is concerning *The Danger of appealing to the People from their Representatives in Parliament.*

The Author says, P. 22. *That some Doctrines have been spread abroad in an open manner pretending, that in reference to the Publick, the People and their Representatives may have distinct Rights.*

That the People have not devolved their whole Power in Government upon their Representatives.

That Parliaments are accountable to, and to be controlled in all their Proceedings by the People.

That 'tis always Lawful, and often expedient to Appeal from the House of Commons to the People.

That these things have been printed, Arraigning the whole Proceedings of the House of Commons, calling their undoubted Priviledges in question, and as it were appealing to the Rabbe from all their Resolutions.

It were to be wished that these Quotations had been Mark'd with proper References to the respective Authors or Books, which have advanced the things alledg'd, that the Originals being examined, might be assisted to speak for themselves, and tho' the omitting such References, admits of Objection and some Reflection

fection, yet I choose to omit all such Reflections as are not absolutely necessary to the Case in Hand, being willing to treat my Author with all the Civility and Respect his Worth Demands, and the Case will bear.

This premis'd, I take all he alledges for granted, as to quotation, and shall only proceed to examine not whether it be fairly proved by him, that such things are printed, but whether he has fairly confuted the thing it self, and proved what he alledges.

In order to this, 'tis necessary to examine what it is the Dr. offers in answer to these Tenents which he says have been so openly spread abroad.

That this appealing to the People is destructive to the Nature of the Constitution, that 'tis practicing all the Methods of Sedition with which she attacks a just Authority; exciting the People to overthrow the Priviledges of their own Representatives.

I wish the Author of this matter had been pleased to tell us what he calls Appeals to the People, and that he had distinguish'd between the just Right of the People, and those of the Representatives, and between those Authors who are for maintaining the due Currency of Right in every part of it, and those who are guilty, as he says, of giving Authority a Mortal Blow.

Doubtless there are those who do not believe that all Power is given to the Representative; and none left with the represented, and yet are not for overthrowing the Priviledges of their Representatives; and of these I profess my self to be one.

I wish

I wish the Commons of *England* in Parliament would be pleased to ascertain what was their undoubted Right, and what not; that they would let us know how far their Power extends, with respect to the People they represent.

The Rights of the Commons of *England*, with respect to the Crown, and the supreme Authority of their King; has been often discuss'd, sometimes with the Pen, and sometimes with the Sword; and however some have affected a Doctrine of Non-Resistance, the Representatives of the Nation have always thought fit to assume a Right to defend their Liberties, when they have found them invaded by Exorbitant Power.

But what the Right of the Commons in Parliament are, and how far they extend, with respect to those from whom they come there, has never yet been ascertained by Parliament.

*A Vind. of the
Rights of the
Commons of
England, by
Sir H. M.

Some *Essays have been made this way from the Press, and Sir H. M. gave us a Scheme of parliamentary Power drawn to a higher Extreme than ever any House of Commons have thought fit to extend the Practice.

A subsequent Author thought fit to advance some contrary Notions, which however they are in general Exploded by both these Authors, have never yet met with any fair Confutation.

The best way to answer an Author in such Case is, by granting what they themselves allow, and from the necessary Consequences of what they Grant prove the Absurdity of what they Deny.

And to me, it seems, this Author has laid himself open in this very Case, for in his Introduction, he allows, P. 14. *That the Peoples Representatives ought never*

to

to give up Fundamentals : Nor can they do it, because as to Fundamentals, they are but the People's Trustees, and can do no Act that can bind their Principals to any thing that is to their Destruction.

This is Fundamental Truth, and I should be exceedingly glad to see it reconciled to what is asserted afterward, in the Chapter of appealing to the People where 'tis affirmed, that to say, *The People may have Distinct Right from their Representatives, and that the People have not devolved their whole Power upon their Representatives, is destructive to the Nature of the Constitution*, P. 22, 23.

I am not very regular in the Method, but I am very certain of the Groundwork of my Argument, of which this is the Abstract.

If the Representatives of the People may do any thing which is not binding to their Principals *the People*, then the People have a Right to contradict, and make void something their Representatives may do, and consequently have some Power which is not devolved upon the Representatives.

I conceive this Error might slip our Author's Memory, for want of laying down a proper Foundation for his Argument, and coming to a positive Determination what we are to understand by Appeals to the People, *The Danger of Appeals to the People*, is the Title to the Chapter, but we are no where in the Chapter told what these Appeals to the People are.

If he means, P. 26. *The People being stirred up to lop off a Branch of the Common-Wealth by trampling on the Rights and Priviledges of the House of Commons*. I grant there is Danger in this; But how are the People thus to be stirred up? as that learned Gentleman Sir H. M. in his Book,

Book, *Of the Rights of the Commons in Parliament*; Observs, It cannot be that so many worthy Gentlemen can act contrary to, or Destructive of the Liberties of their Native Country.

So it cannot be that the People of *England* can ever Design to lop off this Branch, and trample on the Rights and Priviledges of their Representatives; this would be to destroy themselves, and cut themselves off from the principal Vital part of the Constitution; an universal Frenzy must possess the Minds of Men whenever such a Thing is supposed to come to pass, the People must be all Lunatick, and the Nation be a *Bedlam*, not a Civil Government.

And as we are secur'd by the very Nature of the Thing, from the Danger of the People of *England*; ever dethroning their Representatives, so there is no real Necessity to prevent such an Imaginary Fear by the People divesting themselves of their Original Right, and Vesting all Power in their Representatives.

But since Demonstration is the best way of Argument, and the Subject I am upon has great plenty of those Helps; let us see if it is not an unpardonable Absurdity, to say the People have no distinct Right which their Representatives have not:

For Example,

The People have a Right when the King Dissolves their Representative to chuse another, this Power their Representative has not; this is a Right Distinct from their Representative, a Power which was never devolved upon them, and which I suppose never will; If the People had no Power but what was devolv'd upon their Representatives, then having once chosen
such

such a Representative, that Body should upon every Dissolution Nominate a Succession of Representatives.

But whenever the Crown Dissolves a Parliament, the People have the Power distinct from their Representations to choose anew, and if so; then all the Power of the People is not devolved upon the Representatives, but *these* have some right Distinct from *them*.

Nor can I see any thing in this, which tends to Confusion, or which is any way destructive to the Constitution; Thus far I must ask the Author's Pardon, for saying, *with all the Respect for him which the Case will bear*, that his Arguments run a little foul of one another.

I come next to observe, that which I think is not extraordinary just in the way of Arguing; when Page, 27. he is pleased to allow, *Kings may differ with Lords and Commons, and the Two Houses may differ among themselves, and yet the publick Peace not be disturbed, the People also may differ about Civil or Religious Matters, and have various Thoughts concerning Government, Parties may grow up, and mutual Heats arise, and yet the Common Wealth remain unwounded in its Vitals. But Discord is fatal, when a strong Faction is form'd against any part of the Constitution.*

This seems a little Equi-vocal, and it appears likely, that a Discord in the publick Members of the Constitution may be as Fatal as the other; Heats in the Houses against one another, Factions in the Houses against their Prince or Designs of Tyranny in the Prince against either or both Houses of Parliament, these are all certainly as dangerous things and as Destructive of the Constitution as appeals to the People, and yet

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such is the Force of Rethorick, as to put a shadow of indifference on these and charge all the Fatallity on the Peoples falling out with their Representatives.

I confess if any Man should ask me, which of those things before mention'd are of worst Consequence to the Nations Peace, I should find it difficult to tell him, but sure every one seperately or Conjunctively is as bad as a difference between the People and their Representatives.

Then let us go on to Examine the Parralel, as in the differences mentioned above, the Peace may remain Unbroken, and the Common Wealth Unwounded in its Vitals; so may it in this Case, the People may be generally dissatisfied with their Representatives, they may be very Uneasy and make loud Complaints, but it does not follow that they must immediately rise in Tumults, and pull the House about their Ears.

We have seen a time when a certain House behav'd so, that the general Cry of the People was to dissolve them, and Multitudes of Addresses did in as plain Language as decency to the Crown would admit of present the Peoples desire to have them dissolv'd: But what did this general dislike of their actions lead the People to: Not to draw the Sword at their own Representatives, that had been to be *felo de se* and Murther themselves, but to apply themselves to the Sovereign to dissolve them, and upon this Application, the King did dissolve them; and a late Proclamation for dissolving the last Parliament of King William, acknowledges the People have a Right upon dislike of their Members proceeding to apply to the King to dissolve them. The Words of the Proclamation are, *We have thought it Reasonable in this Extraordinary Juncture,*
to

to give our Subjects the Opportunity of choosing such Persons to represent them in Parliament, as they may judge most likely to bring to effect their Just and Pious Purposes. And in order thereto to Dissolve this present Parliament.

If so, If the People ought to have an Opportunity when they see cause to have a New Representative, for that is the meaning, then the People are in some Measure Judges of the Actions and Management of their Representatives, for else it could not be just to make them Judges of the Continuance, or Determination of their Being.

Where then is the Fatality of such an Appeal to the People, since when they have been something uneasy on that Head, it has amounted to no more than to address for a Dissolution; that if they do't like these they may have better, and the King from the Throne has declared, that 'tis reasonable they should be Gratified.

I do not hereby justify any of those things which are complained of by the Dr. P. 28. how innumerable Pamphlets accused the House of Commons in 1701, of not being mindful of the King's Honour, of being in the *French* Interest, wanting Affection to their Native Country, Zeal for its Religion, and as not intending to do what was needful to the Nations Safety; Nor do I say that Parliament were any ways guilty of that Charge, in all, or in any of these Branches. But I may be allowed to say this, and that is enough to my present Purpose; that if the Representative Body of the People were really Guilty of any, or of all of those Heads or Crimes, the People had certainly Reason to be dissatisfied with them, and could not do less than apply to the Sovereign to dismiss them, and give them an Opportunity to send better in their Room.

I believe I may venture to say, 'Tis impossible the People of *England*, call them by the worst Names you please, the *Rabble*, the *Mob*, the *Multitude*, or any thing; I say, 'tis impossible the People of *England* can ever, either by Inclination, or by Contrivance, be brought to a dislike of Parliaments as such; they may find reason to dislike this or that Set of Men, but that the People of *England* should ever attempt to destroy the Representative, *Qua Parliament*. 'Tis impossible.

I reckon that's properly said to be impossible as to Men, which they cannot do without forfeiting their Reason; and all the Claim they have to the Knowledge of their own Interest, Safety, Peace and Prosperity, which they cannot do without being Fools, and Mad-men; whatever Factions or Parties may be raised, 'tis against a Faction and a Party, not against the House it self; and therefore I remember in one of the worst of those numberless Pamphlets, which the Dr. takes notice of, among all the Gall against the Members of that House, it still appeared they had none against the Constitution, by this following Line.

For tho' we value Parliaments, we're out of love with you.

If this be true, I'll examine no more what this Gentleman means by Appeals to the People from their Representatives, for let him mean what he will, there can be no danger in them; because 'tis impossible the People of *England* should ever be against a free Representative, as such; all the cries therefore of the Danger of Appeals of the People are Vain and Trifling.

Yet

Yet our Author is positive, *whether too positive or no, let others determine*; that nothing can be of more dangerous Consequence than to establish, that the People of *England* and their Representatives have distinct Rights; and yet I think with Submission, 'tis prov'd already, that nothing is more plain even from this Gentleman's own Book.

All the Rights and Priviledges of the House of Commons, says he, *are the Peoples Rights and Priviledges*; This I grant: But all the Peoples Rights and Priviledges are not the Rights and Priviledges of the House of Commons, The Rights of the Elected are transferred from the Electors, but 'tis plain they have not devolved all their Rights.

And tho' the Collective Body of the People are not a fourth Estate, yet they are the Center of the other three Estates, from whom constitution is derived, and for whom 'tis form'd.

Parliaments are neither Infalible nor Immortal, the Representative may die and be dissolved, but the Represented Body remains as the great Center of Power, the Fountain of Original Right, the last resort of Lives, Successions, and Governours.

To prove the Danger of the Appeals to the People, the Dr. brings in King *Charles the 1st*, in the Messages and Declarations he published; and the House of Commons in the Answer and Remonstrances, appealing to the People; *and that, says he, brought a Civil War*. This is a new way of arguing.

Had not the King appealed to his Standard at *Nottingham*, had not the Parliament appealed to the Earl of *Essex's* Army, all their Printing and appealing to the People had done nothing. Proclamations and Remonstrances had not been fatal if both sides had not appealed

pealed to the Sword. A Pen and Ink War draws no Blood, and all their Printing of Declarations and Remonstrances, tended only to byass the People to this or that Party, and list in the War which both sides prepar'd for.

There are many better reasons to be given for the beginning of that War, than their Printed Papers, the Foundations of that War was laid in the grievances of Ship Money, Monopolies discontinuing of Parliament, Clashing in Religion and the like; their Printing and Appeals to the People, were generally Recriminations of Partys, by which both sides Expos'd one another, but the ground of that War was lay'd too deep to pretend to be laid at that Door.

Those Gentlemen who place the Confusions of the Civil-War, on both sides appealing to the People, must either be very ill Read in our *English* History, which I am satisfyed this Gentlemen is not, or must be content to pass over the most Essential Points of Difference, between the King and Parliament, and place the wholl upon a Subsequent Circumstance.

And yet in this very Case the Author is gone from his Title, which he calls, appealing to the People from their Representatives, and as an instance to Illustrate it, brings in the very Representatives appealing to them from themselves, and the King also doing the same.

From whence it Appears plain to me, that in all Cases of Extremity it has been the practice both of Kings, Partys, private Persons, and of Parliaments themselves to appeal to the People, when matters of Right, publick Oppressions, and Extraordinary Niceties of State come in Question.

And whereas this Learned Gentleman brings this matter into Dispute, 'tis worth observing, that he can give

us no Instance, in these latter Ages at least; wherein all Partys have not in this manner Appealed to the People, of which we have not seen them yet Convinc'd of the Danger.

All the publick Declarations, and Manifesto's of Princes, are in this respect Appeals to the People. To go back no further than the Case of *Phillip* the Second of *Spain*; his Declaration and Proscription of the Prince of *Orange*, was a Solemn Appeal to all the *Netherlands*; complaining of the Rebellions, Factions, Invasions, and as he calls them Ingratitudes of that Prince, and at last inviting all his Subjects to do him Justice upon the Traytor as he Terms him. *Eam. Strada de Bello Belgico* Tom. I. p. 78.

Which very proscription was the cause which Incited *Balthazar Garrad*, in an Impious and horrid manner, to Assassinate that Prince as he confest afterward, upon being Examined by Torture.

The Appology of that Prince was an Appeal to the People again, wherein he fully clears himself of all the Callumnies and Aspersions cast upon him, of Undutifulness and Ingratitude, and Recriminates upon the King, and yet neither of these were the Grounds of that Civil-War, *ibid.* p. 180.

The Catholick League, as it was call'd, form'd by the House of *Guise* in *France*; against *Henry* the 3d, in Conjunction with the *Spaniards*, published their several Manifesto's and Declarations, which in this Authors sence were Appeals to the People: *Henry* the III. return'd by a long Declaration, setting forth the Reasons of his coming in Arms to Besiege *Paris*; and of his joyning with the King of *Navarr*, and accepting assistance

assistance of the *Hugonot* Armys against the Catholics.

Yet in all these Cases the Appeals were not the Causes or Motives to a Civil-War, but the Consequences of it.

Thus far I thought fit to Examine Forreign History, to show that Appeals to the People have been practised by other Nations, where matters have grown to Extremities between King and People, for indeed the People how much soever Contemn'd, and Endeavour'd to be suppress are the last Resort in all the Extremities of a Nation.

By the People here I would be understood Collectively, not Representatively Consider'd, and I confess my self at a Loss, to understand what a Gentleman means by the Collective Body of the People Assembled in Parliament; which to me seems an Inconsistent Collection of Words, put together without any Congruity of Signification.

But says our Author, *where ever the last resort is, there is the Sovereignty, and if among us the People have a Right to it, then we are a Democracy and not a Kingly Government.* P. 34.

Whether we have a Democracy or a Kingly Government, is not my business to Determine. Nor shall I pretend to enter into the Debate of it, but that the People of *England*, are the last Resort in *England*, admits of so much Demonstration both from the general practice of this Nation, the Tacit Consent of Kings and Parliaments, and from the nature of the thing, that I cannot but say it seems strange to me, an Authour of so much knowledge of Publick Affairs, should

should advance any thing so prejudicial to the Character all Wise Men had of his Judgment.

This has been already offer'd to the World, in Answer to Sr. H—M's. Vindication of the Right of the Commons of *England*; and which that Learned Gentleman never thought fit to reply to.

' That Power which is Original, is Superior; *God is the Fountain of all Power, and therefore is the Supreme:*
' And if we could suppose a Prior and Original of the
' Divine Power, *that Original would be God*, and be
' Superiour; for all subsequent Power must be subject and inferiour to the precedent.

' The Power vested in the Three Heads of our Constitution is vested in them by the People of *England*,
' who were a People before there was such a thing as a
' Constitution.

' *And the Nature of the Thing, is the Reason of the Thing:* It was vested in them by the People, because the
' People were the only Original of their Power, being the
' only Power Prior to the Constitution.

' For the publick Good of the People, a Constitution and Government was Originally Formed; from the
' mutual Consent of these People the Powers and Authorities of this Constitution are derived: And for the
' preservation of this Constitution, and enabling it to
' answer the Ends of its Institution in the best manner
' possible, those Powers were devided.

' The second Maxim is a Natural Consequence of the former, That at the *final, Casual, or any other* Determination of this Constitution, the Powers are dissolv'd,
' and all Authority must derive *de novo* from the first
' Fountain, Original and Cause of all Constitutions, *the Governed.*

D

' Now

‘ Now it cannot be suppos’d this Original Fountain
 ‘ should give up all its Waters, but that it reserves a
 ‘ Power of supplying the Streams: Nor have the Streams
 ‘ any power to turn back upon the Fountain, and invert
 ‘ their own Original. All such Motions are Excentrick
 ‘ and Unnatural.

‘ There must always remain a Supream Power in the
 ‘ Original to supply, in Case of the Dissolution of De-
 ‘ legated Power.

‘ The People of *England* have Delegated all the Exe-
 ‘ cutive Power in *the King*, the Legislative in *the King*,
 ‘ *Lords, and Commons*, the Sovereign Judicature in *the*
 ‘ *Lords*, the Remainder is reserv’d in themselves, and
 ‘ not committed, no not to their Representatives; All
 ‘ Powers Delegated are to one great End and purpose,
 ‘ and no other, and that is *the Publick Good*. If either,
 ‘ or all the Branches to whom this Power is Delegated
 ‘ invert the Design, the End of their Power, the Right
 ‘ they have to that Power ceases; and they become
 ‘ Tyrants and Usurpers of a Power they have no Right
 ‘ to.

‘ The Instance has been visible as to Kings in our
 ‘ Days; and History is full of Precedents in all Ages,
 ‘ and in all Nations; particularly in *Spain*, in *Portugal*,
 ‘ in *Swedeland*, in *France*, and in *Poland*.

‘ But in *England*, the late Revolution is a particular
 ‘ Instance of the Exercise of this Power.

‘ King *James*, on the Approach of the Foreign Army,
 ‘ and the general recourse of the People to Arms, fled
 ‘ out of the Kingdom. What must the People of *En-*
 ‘ *gland* do? They had no Reason to run after him;
 ‘ there was no Body to call a Parliament, so the Consti-
 ‘ tution was entirely Dissolv’d.

The

‘ The Original of Power, *the People*, Assembled in
 ‘ Convention, to consider of Delegating New Powers
 ‘ for their Future Government, and accordingly made a
 ‘ New Settlement of the Crown, a New Declaration of
 ‘ Right, and a New Representative of the People ; and
 ‘ what if I should say they ought to have given a New San-
 ‘ ction to all precedent Laws.

‘ It remains to argue from hence, But what Course
 ‘ must the People of *England* take, if their Representa-
 ‘ tives exercise the Power intrusted with them, to the
 ‘ Ruin of the Constitution?

‘ It has been advanced, That every Man must submit,
 ‘ and not presume to argue against it upon any Supposi-
 ‘ tion of Mismanagement.

‘ I can see no reason given to confirm such a Position ;
 ‘ for unless we will place the Original of Power in the
 ‘ Persons Representing, not in the Persons Represented,
 ‘ it cannot be made out that there ought to be no com-
 ‘ plaint upon the score of our Mismanagement.

‘ It is not the Design of this Discourse to lessen the
 ‘ Authority of Parliament : But all Power must Centre
 ‘ some where. If it is in the Three Branches of the Con-
 ‘ stitution, ’tis there inherently and originally, or it is
 ‘ there by Deputation. If it be there by Deputation,
 ‘ then there must be a Power Deputing, and that must
 ‘ be both *Prior*, and consequently Superior to the Depu-
 ‘ ted, *as before*.

‘ If we will come off of this, we must fly to the old
 ‘ weak Refuge of a Power *Jure Divino*, a Doctrine
 ‘ which the most famed Pretenders to, have liv’d to be
 ‘ ashamed of, and whose Foundation is so weak, that
 ‘ ’tis not worth while to expose it.

‘ I hope I cannot offend in saying the Late Revolution is founded on a last Resort in the Collective Body of the People; the late Kings Declaration when Prince of *Orange* is a Solemn Appeal to the People in the manner of Our Author who acknowledges it to be so.

What was the Lords coming to a great Council at the *Guild-Hall* in the City of *London*, but a last Resort to the People? What was all the Appearance at *Bodon Down* in *Lancashire*, the Declaration of the Gentlemen at *Nottingham*? They were all the Resort to the People, or you must resolve them into Treasons, Insurrections and Rebellions.

Let any Man but put the Case to *January*, 1688. the King was gone, there was no Representative power in Being, nor any power in being which had any Legal Authority, to call a Representative the whole Machine of Government was Unhing'd, and the substance dissolv'd, all Delegated Power ceased, all Commissions determin'd, and none could grant more; there was no Officer no Magistrate could act, or any Power to make new ones. Authority was at an End; all Men had an Equality of Power, Laws indeed were in Being, but no Man had any just Authority to put them in Execution.

Let any Man now tell me who had a just Title to frame a new Government: 'Tis plain the next of Blood to the Crown did not pretend to it, all retreated to the great Original of Power the People; *there was the last Resort*, first the Collective Body in several parts, without any Constituted Authority Assembl'd to advise with the Prince, the Lords dispose of Governments, and the City Address the Prince of *Orange* for his protection, the Prince Summones the People to advise with him; they

they advise to call a *Convention*; which in English I take to mean a meeting of the Collective Body. They assemble, ask the Prince if he pleases to rule over them, present him with the Conditions of his Government, make a Declaration of Right; Claiming, that 'tis their natural Right, to be Governed so and no otherwise: he Accepts the Crown on these Terms, and so becomes a King, this is all the *jure Divino* which I can find in the Story of the present Settlement. and if *Vox Populi* be *Vox Dei*, here is a plain Divine Right, and on this Foot her present Majesties Reign.

If this History, which all Men can remember to be true, be not a sufficient Proof, that the last resort is in the People of *England*, then I will undertake to give more Proofs, but I please my self with believing it cannot be contradicted. Whether the Gentleman I am concern'd with in this Case will infer from hence, that our Government is Democrattick or not, I am not at all concern'd about, but that in our Government and indeed, in all Governments the Nature of the thing implies, that when Successive or Representative Power ceases, the People Collectively considered have a Native Right to make Settlements and Constitutions, for the maintaing of Order and Justice, and for the Currency and Execution of the Laws; if not, Confusions and Inevitable Destruction, must be the Effect of the Demise of a Line of Kings, or the Cessation of a Delegated Power.

Let us come now to the express point, which I suppose our Author to mean; appealing from the Representatives to the People, and tho' I have the most hazardous point of the Argument in case by Inadvertancy, I should offend the Representatives of the Nation now
fitting

sitting, yet as I resolve to say nothing but what is in it self true, and justified by infinite Precedents, I presume that honourable House never can resent that which comes in plain *English*, with Truth in its Company.

The House of Commons have always been very chary of the Priviledges and Honour of the People, whom they represent, and cannot be thought to be U-surping any Powers or Authorities over them, which by the Nature of the Thing, as well as by the design of their Election, is not committed to them; and therefore, as it is already noted: No House ever attempted to assume to themselves the Power of naming a successive Representative; but as it always lay in the Breast of the Sovereign to dissolve a Parliament in being, so it was always the Native inherent Right of the Freeholders of *England* to elect a New one.

This Power must be distinct from the Representatives; 'Twas never the Design of the People to delegate any Branch of this Power to their Representatives; nor did ever any Parliament pretend to invade this Right, or to assume it to themselves.

It might be supposed that on the Dissolution of a Parliament, and before the calling of another, a King should die; and being the last of his line, no Person had any Claim by Succession to the Crown, What must become of the Government? Must all the Confusions of Anarchy succeed a regular Government, or the Crown wait for who is strongest to lay hold on it.

The Laws of Nature make a plain Answer to all these Questions, Governments, and Constitutions, as they were originally derived from the People, must on
all

all Occasions of a Dissolution, or total Interruption, be restored from, and rebuilt upon the Native Power and Original Authority of the People.

But as this seems to be a Mob Doctrine, and looks like setting up the Rabble above Law; Its proper to enquire who are these People, of whom this original Power is thus asserted.

Negatively, not all the Inhabitants, but positively all the Freeholders, the Possessors of the Land have certainly a Right in the Government of it, and if these are called the People, to these there is a Case wherein an Appeal to them is absolutely necessary.

If I do quote the same Tract again for this, 'tis because no Man has ever yet thought fit to confront it either with Reason or History.

' I make no question but Property of Land is the
' best Title to Government in the World; and if the
' King was universal Landlord, he ought to be universal
' Governor of Right, and the People so living on his
' Lands ought to obey him, or go off of his Premises.

' And if any single Man in *England* should at any time
' come to be Landlord of the whole Freehold of *England*,
' he could indeed have no Right to Dispossess the King,
' till the present legal Settlement of the Crown fail'd, be-
cause it was settled by those that had then a Right to
settle it.

' But he would immediately be the full Representative
' of all the Countries in *England*, and might Elect himself
' Knight of the Shire for every County, and the Sheriff
' of every County must Return him accordingly.

' He would have all the Baronies and Titles of Honour
' which are entailed upon Estates devolv'd upon him, and
upon

‘ upon any Expiration of the Settlement would be King
 ‘ by natural Right.

‘ And he would be King upon larger Terms than ever
 ‘ any Man was legally King of *England*; for he would
 ‘ be King by inherent Right of Property.

‘ When therefore I am speaking of the Right of the
 ‘ People, I would be understood of the Freeholders, for
 ‘ all the other Inhabitants live upon Sufferance, and ei-
 ‘ ther are the Freeholders Servants, or having Money to
 ‘ pay Rent live upon Conditions, and have no Title to
 ‘ their living in *England*, other than as Servants, but
 ‘ what they must pay for.

‘ Upon this foot it is that to this Day our Law suffers
 ‘ not a Foreigner to Purchase any of the Freeholds of
 ‘ *England*: For if a Foreigner might Purchase, your
 ‘ Neighbours (having Money to spare) might come and
 ‘ buy you out of your own Country, and take Possessi-
 ‘ on by a legal and indisputable Right.

‘ This Original Right was the first Foundation of the
 ‘ several Tenures of Land in *England*; some held of the
 ‘ King, some of the Lord, some by Knight Service, Soc-
 ‘ cage, and the like, and some were called Freeholds.
 ‘ The Lords of Mannors had their Homages, and their
 ‘ Services from their Tenants, as an Acknowledgment
 ‘ that the Right of the Land gave a certain Right of
 ‘ Government to the Possessor over all the Tenants and
 ‘ Inhabitants.

‘ But he that possessed the least Freehold was as much
 ‘ Lord of himself; and of that Freehold, as the greatest
 ‘ Noble man in the Nation, he ow’d no Homage or
 ‘ Service, no, not to the King, other than as limited by
 ‘ Laws of his own making, that is as he was represented
 ‘ in Parliament.

And

‘And as a thing which will put this Argument out
 ‘of all question. The Right to Lands, Mannors and
 ‘Lordships, was not Originally a Right granted by Pa-
 ‘tents from Kings or Acts of Parliament, but a natural
 ‘Right of Possession handed down by Custom, and anci-
 ‘ent Usage, as the Inheritance from the still more anci-
 ‘ent Possessors and Prescription, or Usage time out of
 ‘Mind, is to this Day allowed to be a sufficient Title in
 ‘several Cases, where Conveyances, Deeds, Charters,
 ‘and Writing of Eates are silent, especially as to But-
 ‘tings and Boundings of Land, Highways, Foot-paths,
 ‘Water Courses, Bridges, and the like.

‘This Right, as all Right Originally, is Founded up-
 ‘on Reason: For it would be highly unreasonable, that
 ‘those People who have no share of the House should
 ‘live in it whether he that built it will or no. No Person
 ‘has any Right to live in *England*, but they to whom
 ‘*England* belongs; the Freeholders of *England* have it
 ‘in the possession; *England* is their own, and no Body
 ‘has any thing to do here but themselves.

‘If they permit other People to live here, well and
 ‘good, but no Man but a Freeholder lives here upon
 ‘any Terms but *permissu Superiorum*, and he pays Rent for
 ‘his License to live here.

‘Thus the Liberties and Priviledges of Towns and Cor-
 ‘porations, are founded upon Acts of Parliament to con-
 ‘firm Charters or Grants from the Crown, by which the
 ‘Freeholders give their consent that such and such Bo-
 ‘dies of Men living in such Towns, shall enjoy certain
 ‘Priviledges in Consideration of their being so confide-
 ‘rably serviceable to the Nation, by paying Taxes, main-
 ‘taining the Poor, by Manufactures, Trade, and the
 ‘like, notwithstanding they are not possessed of any
 ‘part of the Freehold.

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And

‘ And ’tis observable, the King cannot give this Privi-
 ‘ lege, so as to enable any of these Corporations to send
 ‘ Representatives to Parliament. None, but the Freehold-
 ‘ ers of *England* (and such Towns in Conjunction) to
 ‘ whom the Freeholders have already granted such Privi-
 ‘ lege, can give a Qualification of such a Nature, as is a
 ‘ receiving them into an equal state of Priviledge with a
 ‘ Freeholder.

‘ Every Man’s Land is his own Property ; and ’tis a
 ‘ Trespass in the Law for another Man to come upon his
 ‘ Ground without his Consent. If the Freeholders should
 ‘ all agree, That such a Man shall not come upon their
 ‘ Land ; That they will not Lett him a House for his
 ‘ Money ; That whose Land soever he sets his Foot on,
 ‘ the Owner shall Indict him for a Trespass, as by Law he
 ‘ may, the Man must fly the Nation of Course.

‘ Thus the Freeholders having a Right to the Possessi-
 ‘ on of *England*, the Reason must be good that they must
 ‘ have the same Right to the Government of themselves,
 ‘ that they have to the Government of the rest of the
 ‘ Inhabitants ; and *that there can be no Legal Power in Eng-*
 ‘ *land, but what has its Original in the Possessors ; for Pro-*
 ‘ *perty is the Foundation of Power.*

Nor is this Doctrine of Original Right any Deroga-
 tion to the just and full Authority of Parliament, who
 may, notwithstanding this, exercise all their full and
 extended Priviledges in as ample a Manner as is agreea-
 ble to all the just Ends and Purposes for which they
 were first Designed and Intended.

If our Author would be understood in what he
 speaks of to mean, only the little publick Efforts of
 Private Persons or Parties, who often express dissatis-
 faction at the Proceedings in Parliament, as they clash
 with

with their private Interests, and the Designs of enterprizing Men, these are not worth my defending, or his concern, I freely admit those People always Merit, Pity or Punishment, and sometimes both, nor have our Parliaments often thought it worth while to take notice of such People.

The Liberty taken in Print, discovers sometimes the Malice of Authors, and not seldom pulls down Authority on their Heads, but as Truth has the least need of Advocates, so 'tis easy to defend her, and the Parliament has never thought fit to restrain the Press, because their Actions being generally squar'd by Truth and the Law, and design'd for the publick Good they have rather coveted to show them in the Lighr, than to limit the Enquiries of the World; choosing rather to suffer some Indecencies from ill govern'd Pens, than to give the World the least Shaddow of saying, They conceal their Actions from the publick Censure.

But take the People in the Sense I have before observed, and even Parliament themselves have always appealed to them, have been careful to print any remarkable thing which has been before them, that those who chose them to sit there, may see and be satisfied how careful they are of the general Good, and of discharging the Trust reposed in them.

What are the several Publications made by Parliament of the Controversy between the Houses, both upon Occasion of the late Impeachments, and on the occasional Bill, but Appeals to the People and Testimonials of the Candor of their Proceedings.

In all material Cases, the Representatives have thus appealed to the People, and why it should be so Criminal, or so Dangerous for any Man else to Appeal

thither also, does not appear to me, since 'tis impossible it should ever be, that the Free-Holders of *England* can be reduced to such a Depravation of their Reason, as to demolish the Foundation on which they stand, and pull down their own House upon their Heads.

Neither is this appealing to the People, *which those Publications of Kings and Parliaments are called* any thing more or less, but the Vindication of the Proceedings of the Persons and Parties, and setting their Cases as far as they thought they required in a true Light, and no People who have had Truth and Honesty on their side, have ever thought it below them to appeal to all the World.

King *Charles* the II^d, thus appealed to all the People in his Declaration, about the *Rye Plot*, King *William* in his Declaration, at his coming over into *England*; and all the Kings of the World have used it as a constant Method to make publick Declarations, which in this Authors Sense are Appeals to the People upon every extraordinary Revolution of Affairs; the Declaration of the *French* King at placing his Grandson on the Throne of *Spain*, the Manifesto's and Declaration of the Emperor at his sending Prince *Eugene* into *Italy*, and now again at the Transferring the Crown to the Duke of *Austria*, are all Appeals to the People of *Spain*, to excite them to transfer their Obedience to, or from this, or that Party, as they may be prevailed upon by their Reasons, to believe this or that the most Rightful Successor.

But to come yet closer to the Point, the meaning, as I understand this Gentleman, is, that 'tis his Opinion that 'tis not in the Power of the People of *England* to Controul, Limit, or check their Representatives, and that such appealing as we have been speaking of, prompts the People to ruffle the Parliaments, and to question their Proceedings.

This

This is an Argument in which the Author has this Advantage of me, that what he advances has no danger in it, and what I ought to reply to it may, tho' it be really true, and under the restraint of this Circumstance, I cannot say that to it which I think the Case will bear.

But I am of the Opinion that there is a just Appeal from the Representative to the Collective Body of the People. In some particular extraordinary Case, and tho' I do not love to repeat things, I ask Pardon for it now, what else can the Doctor mean, when he says, P. 15. the Parliament, *Cannot touch Fundamentals, and that if they do any thing to the Peoples Destruction, it cannot bind them*, what can be the meaning of this, but that there is an Appeal from them to the People, if they should attempt any thing to the Peoples Destruction.

To him that shall tell me the House of Commons can never do any thing to injure the People; I must reply as before, and with as good Authority, the People of *England* cannot act Destructive of their own Representative.

I do not speak it with a Design to lessen Parliaments in *England*, and I know them to be the Bulwark of the Peoples Liberties, but they are not infallible, they may err, and were it safe to speak all the Truth, perhaps I might say there has been a Time when they have been mistaken in many things.

Now if a Parliament should mistake, and that fatally too, shall the People of *England* have no Method to let them know it, then are they in worse Bondage to their Representative than to the Sovereign, what shall the People do, they may without doubt find out modest Methods

thods to let them know they are in the wrong, and to inform them both that they see it and dislike it.

I could perhaps name the Time when the People have seen Reason to complain of some Steps their Representatives had made, but my Author can never name the time whenever the People of England attempted or discovered a Design to lop off this Branch of the Constitution, and demolish the just Authority of Parliament.

And after all, the Tendency this has to Peace and Union, is a Mystery past finding out, the Coherence this has with the Title of the Book is a Thing hid from Humane Understanding, to deprive the People of their just Right, and set up their Representative with an Authority they never pretended to themselves, may have a Title of Peace, but carries none in the Meaning. I could say something to the Doctor's pleasant Proposal of Peace in his Introduction, P. 17. *Implying, that the Resentments on all sides shou'd be laid by, and the weaker Party cajol'd into a Peace, till foreign Wars are over, and what then? Then as you were.*

But as I may examine some other Chapters of this Book, there cannot want Occasion for Reflections on that head.

Now if a Parliament should mistake, and that fatal-ly too, that the People of England have no Method to let them know it, then are they in worse bondage to their Representatives than to the Government, what shall the People do then? may I not doubt about model meth-
E I N I S

